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COMMENTS OF GOVERNMENTS 1/ ON THE REPORT OF THE WORKING GROUP ON THE QUESTION OF AN INTERNATIONAL CRIMINAL JURISDICTION 2/

Addendum

PANAMA

[Original: Spanish]

[14 July 1993]

1. The Government of Panama would like to see a uniform and equitable system of justice in the world, which would be accessible to all States and would severely punish acts that constitute international crimes detrimental to the international community, as well as a mechanism permitting States to claim reparations for the consequences of such acts, in order to guarantee the continued existence of humankind and of civilization.

2. The Government of Panama supports the establishment of a permanent international criminal judicial body with compulsory and exclusive jurisdiction.

3. The legal framework on which the international criminal jurisdiction is based should be elaborated in the form of a treaty which should be ratified by States wishing to submit to its jurisdiction.

1/ Submitted further to paragraph 5 of General Assembly resolution 47/33 of 25 November 1992. References to the question of an international criminal jurisdiction are also to be found in document A/CN.4/448 and Add.1 reproducing the comments and observations submitted by Governments on the draft code of crimes against the peace and security of mankind adopted on first reading by the Commission at its forty-third session.

2/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10, A/47/10, annex.

4. The jurisdiction of the court should be compulsory, independently of the nationality of the accused, with respect to all crimes defined in the draft Code of Crimes and in other international agreements, in accordance with the principle "nullum crimen sine lege".

5. The Government of Panama considers that one of the most serious offences which should be covered by the draft Code of Crimes should be attacks on staff members of the United Nations, Permanent Missions or their representatives, and troops or persons whom Member States place at the disposal of the Organization.

6. The procedure to be followed in such cases should be set forth in the treaty establishing the court in order to guarantee the principle of due process and the applicable penalties could be defined in the draft Code of Crimes in order to safeguard the principle "nulla poena sine lege".

7. The Government of Panama supports the establishment of an international detention centre for the detention of those guilty of international crimes. The operation of this centre should be governed by the provisions of the treaty or of a special agreement on this matter. In many cases, States Members of the Organization lack adequate infrastructure and security mechanisms for the detention of such criminals.

8. Notwithstanding the foregoing, the Government of Panama considers that the question of the draft Code of Crimes against the Peace and Security of Mankind and the establishment of an international criminal court are closely linked and cannot be dealt with separately.

9. The Government of Panama is of the view that the adoption of a code without adequate means for its implementation would render it toothless. Similarly, a court without a code would be meaningless, since it would lack objective jurisdiction. The two projects are thus closely related.

10. For the Government of Panama, the ratification by States of the treaty establishing the court should imply ipso facto acceptance of the draft Code of Crimes, while leaving open the possibility that States parties to the treaty could apply any other relevant agreement or statute in force on the matter which is mentioned in the treaty.